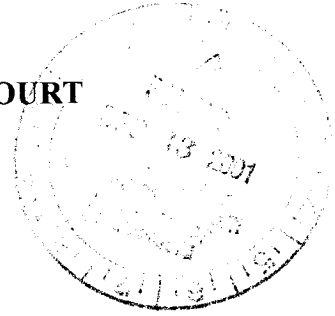


IN THE UNITED STATES DISTRICT COURT
OF WESTERN MISSOURI
SOUTHWESTERN DIVISION



CODY J. AUSTIN,

Plaintiff,

vs.

**DONALD BENNETT, SCOTT
LANDRETH and THE CITY OF
CASSVILLE,**

Defendants.

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92-150-1-37-30-50W-SOW

Case No. _____

COMPLAINT IN DAMAGES

COMES NOW, Plaintiff, CODY J. AUSTIN, by and through his attorney of record, J. MICHAEL RIEHN, of Cassville, Missouri, and for his cause of action, does respectfully state, allege and aver as follows:

1. That Plaintiff is a resident of Jasper County, Missouri.
2. That Defendant, CITY OF CASSVILLE, is at all times herein mentioned a municipality existing under and by the laws of the State of Missouri as a city in the County of Barry, State of Missouri. That the City is a person and may be sued for the conduct described herein pursuant to 42 U.S.C. § 1983. Service may be obtained on Vicki McCune, City Clerk, 300 Main Street, Cassville, MO 65625.
3. That the Defendant, CITY OF CASSVILLE, is a municipality that may be held liable for the conduct of its employees, Defendants, LANDRETH and BENNETT, as the employees unconstitutional conduct is a result of formal official municipal policy.

4. That Defendant, SCOTT LANDRETH, is a resident of Cassville, Barry County, Missouri, employed by the City of Cassville Police Department and all times herein was acting under the scope and in the course of his employment as an officer of the Cassville Police Department and may be sued for the conduct as described herein pursuant to 42 U.S.C. § 1983.

5. That Defendant, DONALD BENNETT, is a resident of Cassville, Barry County, Missouri, employed by the City of Cassville Police Department and all times herein was acting under the scope and in the course of his employment as an officer of the Cassville Police Department and may be sued for the conduct as described herein pursuant to 42 U.S.C. § 1983.

6. That this Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343(a)(3).

7. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b).

8. That on or about January 26, 2001, Defendants, DONALD BENNETT and SCOTT LANDRETH, as Officers of the Cassville City Police Department executed a search warrant upon a residence located at 501 West 15th Street, in Cassville, Barry County, Missouri.

9. That on or about January 26, 2001, Plaintiff approached the residence located at 501 West 15th Street, in Cassville, Barry County, Missouri, with the express permission and upon the invitation of the individuals who occupied and/or controlled said residence.

10. That on January 26, 2001, Plaintiff approached the residence at 501 West 15th Street, in Cassville, Barry County, Missouri, and knocked on the door of the residence announcing his presence.

11. That upon Plaintiff knocking on the door of the residence at 501 West 15th Street, in Cassville, Barry County, Missouri, Defendants, BENNETT and LANDRETH, without announcing their presence or identifying themselves as Officers of the Cassville City Police Department, opened the front door to the residence and physically assaulted Plaintiff by tackling Plaintiff and knocking him down on the concrete front porch of said residence.

12. That Defendants, BENNETT and LANDRETH, as Officers of the Cassville Police Department then handcuffed Plaintiff and drug him inside the residence and threw him on the floor of said residence.

13. That as a direct result of the physical assault on Plaintiff by Defendants, LANDRETH and BENNETT, Plaintiff suffered physical and emotional injuries.


14. That Defendants, LANDRETH and BENNETT, acting under the color of state law, deprived the Plaintiff of his liberty without due process of law in violation of 42 U.S.C. § 1983.

15. Defendants, LANDRETH and BENNETT, acted with an evil motive or intent or acted with a reckless or callous indifference to the federally protected rights of Plaintiff thereby justifying the award of punitive damages against said Defendants.

WHEREFORE, Plaintiff prays for Judgment in favor of Plaintiff and against Defendants, jointly and severally, for compensatory damages in an amount in excess of \$100,000; for an award of punitive damages against Defendants, BENNETT and LANDRETH, in an amount sufficient to punish said Defendants and deter others from like conduct; for an award of reasonable attorney's fees pursuant to 42 U.S.C. § 1988; for the costs incurred herein; and, for such other and further relief as the Court deems just and

equitable under the circumstances.

Respectfully Submitted,
LAW OFFICE OF J. MICHAEL RIEHN



J. MICHAEL RIEHN #45328
ATTORNEY FOR PLAINTIFF
301 West 8th Street
P. O. Box 324
Cassville, MO 65625
417-847-1339

VERIFICATION

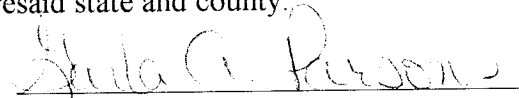
STATE OF MISSOURI :

COUNTY OF BARRY :

I, CODY J. AUSTIN, after being duly sworn, do hereby state that I have read the foregoing and the facts contained herein are true and correct to the best of my knowledge, information and belief.


CODY J. AUSTIN

Sworn to and Subscribed before me, Notary Public, on this 30th day of August, 2001, in the aforesaid state and county.


Notary Public

My Commission Expires:

Jan. 14, 2002

